

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, New York 10007-1866**

Date of Notice: August 10, 2012

Public Notice Number: 12- 30

Comment Period: Thirty (30) days after issuance of this Public Notice

Action: Notice of Proposed Assessment of a Clean Water Act  
Section 309(g) Class II Administrative Penalty, and  
Opportunity to Comment

The U.S. Environmental Protection Agency (EPA) is authorized under Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. §1319(g), to assess a civil penalty after providing the person subject to the penalty with notice of the proposed penalty and the opportunity for a hearing, and after providing interested members of the public with notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under Section 309(g) of the CWA, any person who violates Section 301 of the CWA, may be assessed a Class II civil penalty of up to \$177,500 by EPA. Class II proceedings for Section 309(g) of the CWA are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits" (CROP), which have been codified in the Code of Federal Regulations as Title 40, Part 22. The Code of Federal Regulations and the Federal Register are available at most libraries and the EPA internet site [www.epa.gov](http://www.epa.gov).

Section 22.13(b) of the CROP sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings where the parties agree to settlement of one or more causes of action. This is accomplished through issuance of a consent agreement and final order pursuant to Sections 22.18(b)(2) and 22.18(b)(3) of the CROP. The subject penalty assessment noticed herein follows the procedures set forth in Section 22.13(b) of the CROP.

The procedures by which the public may submit written comments on a proposed Class II penalty assessment or participate in a Class II penalty proceeding are set forth in Section 22.45(c) of the CROP. The deadline for submitting comments on a proposed Class II penalty assessment is thirty (30) days after issuance of the public notice.

Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), EPA is hereby providing notice to the public of the following proposed Class II administrative penalty assessment.

Case Name: In the Matter of Pan American Grain Company, Inc.  
Docket Number: CWA-02-2011-3451  
Permit Number: PRR05BT41

Name and address  
of Respondent: Pan American Grain Company, Inc.  
Claudia St., Amelia Industrial Park  
Guaynabo, Puerto Rico 00968

Location of alleged  
violations: Calle Central Esquina San Pablo, Sabana Ward, Guaynabo, Puerto  
Rico 00968

Receiving Body of Water: San Juan Bay

Nature of alleged violation: **For violations of Sections 301 and 402(p) of the Act, 33 U.S.C. §1311 and 33 U.S.C. §1342(p), respectively, by discharging pollutants into waters of the United States, through storm water runoff associated with industrial activities, without a NPDES storm water permit required pursuant to Section 402 of the Act.**

Case Name: In the Matter of Pan American Grain Company, Inc.  
Docket Number: CWA-02-2012-3454  
Permit Number: PRR05BW65

Name and address  
of Respondent: Pan American Grain Company, Inc.  
Claudia St. Amelia, Industrial Park  
Guaynabo, Puerto Rico 00968

Location of alleged  
violations: Edificio 19 Industrial Park Corujo, Bayamón, Puerto Rico 00968

Receiving Body of Water: Rio Hondo

Nature of alleged violation: **For violations of Sections 301 and 402(p) of the Act, 33 U.S.C. §1311 and 33 U.S.C. §1342(p), respectively, by discharging pollutants into waters of the United States, through storm water runoff associated with industrial activities, without a NPDES storm water permit required pursuant to Section 402 of the Act.**

Case Name: In the Matter of Pan American Properties MFG., Co.  
Docket Number: CWA-02-2012-3455  
Permit Number: PRR05BX55

Name and address  
of Respondent: Pan American Properties MFG., Co.  
Claudia St., Amelia Industrial Park  
Guaynabo, Puerto Rico 00968

Location of alleged  
violations: State Road 2, Km. 30.1, Ponderosa Sector, Vega Alta, Puerto Rico  
00692

Receiving Body of Water: Punta Quebrada Honda, Río Cibuco

Nature of alleged violation: **For violations of Sections 301 and 402(p) of the Act, 33 U.S.C. §1311 and 33 U.S.C. §1342(p), respectively, by discharging pollutants into waters of the United States, through storm water runoff associated with industrial activities, without a NPDES storm water permit required pursuant to Section 402 of the Act.**

Case Name: In the Matter of Pan American Grain Company, Inc.  
Docket Number: CWA-02-2012-3456  
Permit Number: PRR05BW66

Name and address  
of Respondent: Pan American Grain Company, Inc.  
Claudia St. Amelia Industrial Park  
Guaynabo, Puerto Rico 00968

Location of alleged  
violations: Claudia St., Amelia Industrial Park, Guaynabo, Puerto Rico 00968

Receiving Body of Water: Santa Catalina Creek and San Juan Bay

Nature of alleged violation: **For violations of Sections 301 and 402(p) of the Act, 33 U.S.C. §1311 and 33 U.S.C. §1342(p), respectively, by discharging pollutants into waters of the United States, through storm water runoff associated with industrial activities, without a NPDES storm water permit required pursuant to Section 402 of the Act.**

Relief Sought: EPA has agreed to a settlement in principle in the amount of \$99,500 to globally settle with PAG the violations described above. PAG has expressed interest in developing and implementing a Supplemental Environmental Project to mitigate part of the cash penalty, which EPA has agreed to provided that the project satisfies the criteria of EPA's SEP Policy.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the Relief Sought, or review the public record for this proceeding or other documents related to this proceeding, should contact the enforcement case manager, Jaime López,

at USEPA, Caribbean Environmental Protection Division, City View Plaza II – Suite 7000, #48 165 Road Km. 1.2, Guaynabo, Puerto Rico 00968, Tel.: (787) 977-5851, Fax: (787) 289-7982 and e-mail: [lopez.jaime@epa.gov](mailto:lopez.jaime@epa.gov). The public record for this proceeding is at the address given above, and is available for public inspection during business hours.

TO COMMENT: Persons wishing to comment upon the proposed penalty assessment should direct comments to Ms. Karen Maples, Regional Hearing Clerk, U.S. EPA, Region 2, 290 Broadway, 16<sup>th</sup> Floor, New York, NY 10007-1866, with a copy of such correspondence to Mr. Jaime López at the address given above.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to forty (40) days after issuance of this notice.

Dated: August 10, 2012

José C. Font, Acting Director

Caribbean Environmental Protection Division